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# Eighth Annual Report of the Citizen Trade Policy Commission, 2012

Maine State Legislature

Office of Policy and Legal Analysis

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**STATE OF MAINE  
125<sup>th</sup> LEGISLATURE  
SECOND REGULAR SESSION**

**Eighth Annual Report of the  
Citizen Trade Policy Commission**

**December 2012**

**Voting Members**

**Sen. Roger L. Sherman, Co-Chair  
Rep. Joyce Maker, Co-Chair  
Sen. Thomas Martin, Jr.  
Sen. John L. Patrick  
Rep. Bernard L. Ayotte  
Rep. Margaret Rotundo**

**Stephen Cole  
Michael Herz  
John Palmer  
Connie Jones  
Linda Pistner  
Harry K. Ricker  
Jay Wadleigh  
Joseph Woodbury**

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**Advisory Members**

**Michael Karagiannes  
Pamela Taylor  
Wade Merritt**



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## **I. INTRODUCTION**

The Citizen Trade Policy Commission was established during the Second Special Session of the 121<sup>st</sup> Legislature by Public Law 2003, chapter 699. A copy of the law establishing and governing the Commission and amendments to that law are in **Appendix A**. The 22-member Commission includes six legislators, an Attorney General designee, five non-voting agency officials representing the Department of Labor, the Maine International Trade Center, the Department of Environmental Protection, the Department of Agriculture, Food and Rural Resources, and the Department of Human Services, and 10 public members representing business, labor, health, government and environmental interests. The Commission initially convened on October 6, 2004. The Commission's current membership list can be found in **Appendix B**.

The Commission provides an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. Specifically, the Commission has the following duties:

- 1) To assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment;
- 2) To provide a mechanism for citizens and legislators to voice their concerns and recommendations;
- 3) To make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impacts of trade agreements; and
- 4) To establish and maintain a communication link between local, state and federal agencies and the public.

Information about the Commission's activities and all Commission documents can be found online at <http://www.maine.gov/legis/opla/citpol.htm> or obtained through the Office of Policy and Legal Analysis.

## **II. MEETINGS**

During this reporting period, July 1, 2011 through December 5, 2012 the Commission held nine meetings on the following dates:

- September 16, 2011
- November 3, 2011
- December 15, 2011
- February 10, 2012
- March 9, 2012
- April 27, 2012

- July 11, 2012
- September 27, 2012
- October 24, 2012

Summaries of the Commission's meetings can be found on its website <http://www.maine.gov/legis/opla/citpol.htm>. A list of acronyms that may be helpful when reviewing the meeting summaries can be found in **Appendix C**.

The Commission used its meetings to:

- Monitor, discuss and react to on-going and emerging trade issues with a specific focus on the developing Trans Pacific Partnership Agreement (TPPA);
- Continue to explore the impact of international trade agreements on Maine's businesses, labor force, healthcare system and the environment;
- Conduct an assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, and the business environment and working conditions in Maine;
- Coordinate its efforts with Maine's congressional delegation, state officials and other entities involved with international trade; and
- Further develop its relationship and communications with the United States Trade Representative.

The Commission is required by statute to hold at least two meetings per year at different locations in the state in order to hear public testimony and recommendations from people in the state regarding the actual and potential impacts of international trade agreements. During this reporting period of 18 months, the Commission held public hearings in Calais, Augusta and Skowhegan.

In addition, the Commission regularly invited guest speakers to its meetings to provide information on trade issues, pending trade agreements and issues relevant to the Commission's work. During this reporting period (July 2011 – December 2012), the Commission welcomed the following guest speakers to its meetings.

- **Diane Barnes, Calais Town Manager and John Ferguson, Chief Administrative Officer St. Stephen New Brunswick.** When the CTPC held its meeting in Calais in November of 2011, Ms. Barnes and Mr. Ferguson made a joint presentation to the Commission about relationship these border towns have worked hard to develop and maintain in this era where border security is so important. They spoke of how economic developments in one community ultimately show benefits in the other.
- **Sarah Bigney, Maine Fair Trade Campaign.** Ms. Bigney formerly worked with the Maine Fair Trade Campaign, which at the time was a state-wide coalition of more than 60

groups. According to their mission statement, the organization is a coalition united to build a just, sustainable and democratic economy. By the time the planned meeting was held in September 2011, Ms. Bigney had moved on from Maine Fair Trade to work for the Maine AFL-CIO but shared with the Commission a presentation that she made to past Commissions entitled “Trade Agreements 101.” Her presentation described the evolution of trade agreements beyond instruments to govern the exchange of goods and services and how this evolution has had an increasing impact on state sovereignty. She spoke generally of concerns with the dispute resolution processes in place regarding trade agreements and the fast track process utilized by Congress to ratify trade agreements. She cited specific trade disputes that supported her concerns about the challenges trade agreements pose to federal and state sovereignty. Ms. Bigney also provided the Commission with a useful glossary of trade-related acronyms.

- **Bruce Bryant, Northeast Field Representative, Alliance of American Manufacturing.** Mr. Bryant is a former Maine legislator and past member of the CTPC. He made a presentation to the Commission regarding unfair trade practices regarding auto parts from China and what he stated were significant negative impacts to auto parts manufacturing in the United States.
- **Jim Catella, staff, Office of Senator Olympia Snowe.** Mr. Catella spoke to the Commission in the fall of 2011 regarding the Panama, Colombia and South Korea free trade agreements. At that point, the United States, under President Bush, had agreed to the trade treaties but they had not yet been signed by President Obama who was awaiting the passage of implementing legislation from Congress. Mr. Catella relayed to the Commission Senator Snowe’s concerns about each agreement, which included allegations of human rights violations and lack of transparency with regard to banking practices that may assist corporations in avoiding tax liabilities.
- **Jean Grier, Chief Procurement Negotiator, Office of United States Trade Representative.** Soon after attending the Virginia-based negotiation round of the TPPA, and as a follow-up to letters sent to the USTR regarding certain provisions of the emerging TPPA, the Commission invited Ms. Grier to speak to them by phone in September 2012. Ms. Grier provided helpful responses to Commission members’ concerns about provisions in the TPPA that could impact government procurement of goods and services.
- **Troy Haines, Maine Fair Trade Campaign. Mr. Haines initially spoke to the Commission** when he offered testimony at the public hearing portion of the meeting in Calais in November of 2011. He also offered brief comments to the Commission in late 2011. He was invited back to speak to the Commission in more detail at its February 2012 meeting regarding the effort to seek “fast-track” authority for the United States Trade Representative to negotiate the Trans Pacific Partnership Agreement and the negative implications of employing this process. Due to a travel issue, he was unable to make his presentation to the Commission. Instead, Sarah Bigney made the presentation to the Commission on his behalf.
- **Representative Jeff McCabe.** At its October meeting in Skowhegan, Representative McCabe briefed the Commission on his experiences attending the TPPA negotiations in

Virginia. He also spoke about the concerns held by many in the Skowhegan/Norridgewock region (home to 2 of 3 Maine-based New Balance manufacturing facilities) regarding changes to tariff provisions in the TPPA, particularly as those tariffs would impact imports of shoes from Vietnam.

- **Judy Pelletier, Trade Adjustment Assistance Program Administrator (TAA), Maine Department of Labor.** Ms. Pelletier briefed the Commission about the administration of the TAA program. CTPC members requested her participation at its meeting held in Calais to learn more about the program which they had been informed previously was due to expire if the U.S. Congress did not take action to extend. She provided them with information about elements of the program including outreach, training and job searches and included a useful handout that provided additional information which can be found in **Appendix D**.

- **Robert Stumberg, Professor and Director of the Harrison Institute of Public Law at Georgetown University.** During the autumn of 2011, Professor Stumberg provided a briefing on the 2009 Trade Policy Assessment completed on behalf of the CTPC. Professor Stumberg, who consulted with the Forum on Trade and Democracy, was contracted by the Commission to complete the statutorily required biennial assessment. He provided what he called a “roadmap” of trade agreements and discussed how lawyers think of them. He outlined 3 categories of agreements and briefed the Commission on specific agreements and how they impact state sovereignty and the consequences of being on the losing end of a trade dispute. At its meeting in Calais, Professor Stumberg spoke to the Commission about two components developing in the TPPA dealing with state-owned enterprises and domestic regulation and their respective impacts on state utilities and the regulation of tobacco. Professor Stumberg would be called upon again when the Commission began its work on the 2011 CTPC assessment. On this project, Professor Stumberg was asked to consider the developing trade agreement (TPPA) and its potential impact on state and federal policies governing tobacco regulation, pharmaceuticals and government procurement. The assessment was completed in the spring of 2012.

- **Don Tardie, Managing Director of Sales for Maine Woods Company LLC.** Mr. Tardie came before the Commission in April of 2012. He provided specific information on the soft wood lumber agreement between the United States and Canada and a chronology of events, including disputes and levy assessments, relative to that agreement. Mr. Tardie also spoke generally about future trade agreements and made recommendations to the Commission about the imposition of import duties and dispute resolution and settlement processes.

- **Nora Todd, staff, Office of Congressman Mike Michaud.** Ms. Todd spoke to the Commission in the fall of 2011 and 2012. One of Ms. Todd’s roles as the Congressman’s staff is to work with the House trade working group which comprises 4 members of Congress who advocate for fair trade. In 2011, she spoke to the Commission about the discussion of that working group and Congressman Michaud’s concerns about the Panama, Colombia and South Korea trade agreements. She also briefed the Commission on a Trade Adjustment Assistance program that was set to expire in 2011. The program provided benefits to workers who were negatively impacted by job losses due to trade agreements. In

2012, she briefed the Commission about Congressman Michaud's concerns about the TPPA and their role in trying to influence the ongoing TPPA negotiations.

- **Representative Sharon Treat, member United States Trade Representative Intergovernmental Political Advisor Committee (IGPAC).** Representative Treat made several presentations to the Commission and also to the public at a hearing held in Skowhegan. As a former member of the CTPC and because of her role on IGPAC, Rep. Treat was repeatedly called upon by the Commission to keep members informed about the developing Trans Pacific Partnership Agreement (TPPA) and to continuously educate the membership on the complexity of international trade agreements and their impacts on policies and important objectives established by the federal government and the states.

- **Zoltan Van Heyninge, Executive Director, US Lumber Coalition.** Through the efforts of Sen. Sherman, Mr. Van Heyninge made a presentation to the Commission by phone from Washington D.C. to discuss the U.S. Canada Softwood Lumber Agreement (SLA). He provided CTPC members with a summary of the SLA and stated his concerns that Canada has violated these agreements and supported the call by U.S. industry urging Canada to come into compliance.

### **III. COMMISSION ACTIONS**

In addition to actions previously discussed, the Commission engaged in the following activities.

- The Commission submitted comments to the USTR regarding Mexico, Canada and Japan joining the Trans Pacific Partnership Agreement in response to a request for comments in the Federal Register. The letters stated that the inclusion of such large trading partners was largely incompatible with a trade agreement that was originally conceived from the perspective of trade between the United States and smaller Pacific-rim countries. The letters also indicated the chilling effect that such a massive trade agreement would have on state sovereignty for states like Maine that have a contiguous border with Canada. A copy of the comments submitted by the Commission may be found in **Appendix E**.
- In response to an invitation seeking public comment on a report to Congress entitled "How to Modernize and Improve the System of Regulation in the United States," from Secretary of Treasury, Tim Geithner, the Commission re-sent a letter from April of 2010. The 2010 letter was sent to Senator Christopher Dodd regarding a proposed provision in the Restoring American Financial Stability Act, which would have allowed the federal government to invalidate state insurance laws that were interpreted as being "inconsistent" with international agreements. In that communication, the Commission stated its strong opposition to this proposed abrogation of state sovereignty. Ultimately, that provision was not included in the federal legislation; a point made clear in a cover letter to Secretary Geithner. A copy of the comments submitted by the Commission may be found in **Appendix E**.
- The Commission engaged in a lengthy debate following a presentation regarding the negative aspects of the Fast Track Authority process of approving trade agreements often

employed by Congress. In response to that discussion, the Commission sent a letter to the USTR regarding the need for transparency, appropriate protection of state sovereignty and adequate congressional review in trade treaty negotiations. This letter urged the establishment of and adherence to a well-defined and more deliberative process by which trade agreements will be negotiated and approved. A copy of the Commission's letter may be found in **Appendix E**.

- The Commission sent a letter to the United States House of Representatives Ways and Means Committee regarding President Obama's trade policy agenda. This letter was similar to a letter previously sent to the USTR (see letter dated March 6<sup>th</sup>) Additionally, this letter to the Ways and Means Committee stated support for the recent stance taken by Australia opposing the inclusion of Investor State Settlement Disputes Clauses (ISDS) in the TPPA. A similar letter supporting Australia's stance against ISDS, was sent to the USTR. A copy of the Commission's letter may be found in **Appendix E**.
- The Commission contracted with Professor Bob Stumberg, Director of the Harrison Institute for Public Law and Professor of Law, Georgetown University Law Center to conduct its statutorily required biennial assessment. The Commission chose to focus on the TPPA for this assessment to offer input and analysis regarding a developing trade agreement with the hope of having some impact on TPPA negotiations. The assessment focused on 3 subjects regarding the TPPA and their possible effects on Maine: pharmaceuticals, government procurement, and tobacco regulation. A copy of the assessment can be found on the CTPC website at <http://www.maine.gov/legis/opla/citpol.htm>
- As a follow-up to the assessment, the Commission composed and sent 4 letters to the USTR. Three of those letters dealt with the topics of the assessment, tobacco, procurement, and pharmaceuticals and requested comment on the Commission's assessment relative to these topics. The fourth letter posed questions related to recent decisions by the World Trade Organization that impacted the validity of certain laws and regulations in the U.S. dealing with country-of-origin labeling. A copy of the Commission's letters may be found in **Appendix E**.
- Finally, after a phone presentation from Jean Grier (USTR Chief Procurement Negotiator) where the Commission expressed concerns about TPPA provisions regarding government procurement and the intent of the USTR to continue to consult with the states on these matters, the Commission sent a letter confirming the points made in that discussion. States were previously assured by the USTR that they will be consulted so that they may choose whether or not to abide by certain procurement provisions in trade agreements. The Commission received further response from the USTR on the topic of procurement and other important aspects of the TPPA negotiations in the form of a letter from Ambassador Ron Kirk. A copy of the Commission's letter and the response from Ambassador Kirk may be found in **Appendix E and Appendix F**.

#### **IV. AGENDA FOR 2013**

At the end of this reporting period there will likely be a change in the leadership and membership of the Commission. Given these changes in leadership and membership, the Commission is still determining its direction for the next reporting year. The Commission's agenda will include the following efforts.

Commission is still determining its direction for the next reporting year. The Commission's agenda will include the following efforts.

- The Commission will continue its dialogue with federal, state and local entities and Maine's citizenry to advocate for improvement in the federal government's consultation with states.
- The Commission will continue to monitor international trade negotiations and elevate trade-related issues affecting Maine at the state and local levels to Maine's Congressional Delegations and to other appropriate federal entities.
- The Commission will continue to closely monitor the ongoing negotiations of the Trans Pacific Partnership Agreement and working with the representative on the USTR Intergovernmental Policy Advisory Committee to the greatest extent possible to ensure positive results for Maine people.
- The Commission will continue to meet its statutory obligations to monitor the impacts of trade agreements on state and local laws, working conditions and the environment.
- It will work to continue to provide a mechanism for citizens and Legislators to voice their concerns and recommendations and to make policy recommendations with the hope of protecting Maine's laws, jobs and the overall business environment from any negative impacts of trade agreements.



## **APPENDIX A**

**Authorizing Legislation; Public Law 2003, chapter 699 and Public Law 2007, chapter 266**



## 10 §11. MAINE JOBS, TRADE AND DEMOCRACY ACT

**1. Short title.** This section may be known and cited as "the Maine Jobs, Trade and Democracy Act."

[ 2003, c. 699, §2 (NEW) .]

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A. [2003, c. 699, §2 (NEW) .]

B. "Trade agreement" means any agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade among the parties to the agreement. "Trade agreement" includes, but is not limited to, the North American Free Trade Agreement, agreements with the World Trade Organization and the proposed Free Trade Area of the Americas. [2003, c. 699, §2 (NEW) .]

[ 2003, c. 699, §2 (NEW) .]

**3. Purposes.** The commission is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

[ 2003, c. 699, §2 (NEW) .]

**4. Membership.** The commission consists of the following members:

A. The following 17 voting members:

(1) Three Senators representing at least 2 political parties, appointed by the President of the Senate;

(2) Three members of the House of Representatives representing at least 2 political parties, appointed by the Speaker of the House;

(3) The Attorney General or the Attorney General's designee;

(4) Four members of the public, appointed by the Governor as follows:

(a) A small business person;

(b) A small farmer;

(c) A representative of a nonprofit organization that promotes fair trade policies; and

(d) A representative of a Maine-based corporation that is active in international trade;

(5) Three members of the public appointed by the President of the Senate as follows:

(a) A health care professional;

(b) A representative of a Maine-based manufacturing business with 25 or more employees; and

(c) A representative of an economic development organization; and

(6) Three members of the public appointed by the Speaker of the House as follows:

(a) A person who is active in the organized labor community;

(b) A member of a nonprofit human rights organization; and

(c) A member of a nonprofit environmental organization.

In making appointments of members of the public, the appointing authorities shall make every effort to appoint representatives of generally recognized and organized constituencies of the interest groups mentioned in subparagraphs (4), (5) and (6); and [2003, c. 699, §2 (NEW).]

B. The following 4 commissioners or the commissioners' designees of the following 4 departments and the president or the president's designee of the Maine International Trade Center who serve as ex officio, nonvoting members:

- (1) Department of Labor;
- (3) Department of Environmental Protection;
- (4) Department of Agriculture, Conservation and Forestry; and
- (5) Department of Health and Human Services. [2003, Pt. B, §6 (REV); 2007, c. 266, §1 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

[ 2003, c. 699, Pt. B, §6 (REV); 2007, c. 266, §1 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

**5. Terms; vacancies; limits.** Except for Legislators, commissioners and the Attorney General, who serve terms coincident with their elective or appointed terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2 terms. Members may continue to serve until their replacements are designated. A member may designate an alternate to serve on a temporary basis.

[ 2003, c. 699, §2 (NEW) .]

**6. Chair; officers; rules.** The first-named Senate member and the first-named House of Representatives member are cochairs of the commission. The commission shall appoint other officers as necessary and make rules for orderly procedure.

[ 2003, c. 699, §2 (NEW) .]

**7. Compensation.** Legislators who are members of the commission are entitled to receive the legislative per diem and expenses as defined in Title 3, section 2 for their attendance to their duties under this chapter. Other members are entitled to receive reimbursement of necessary expenses if they are not otherwise reimbursed by their employers or others whom they represent.

[ 2003, c. 699, §2 (NEW) .]

**8. Staff.** The Office of Policy and Legal Analysis shall provide the necessary staff support for the operation of the commission. After one year, the commission shall assess the need for and qualifications of a staff person, for example, an executive director. If the commission determines that it requires such a person, it may request additional funds from the Legislature.

[ 2003, c. 699, §2 (NEW) .]

**9. Powers and duties.** The commission:

- A. Shall meet at least twice annually; [2003, c. 699, §2 (NEW).]
- B. Shall hear public testimony and recommendations from the people of the State and qualified experts when appropriate at no fewer than 2 locations throughout the State each year on the actual and potential social, environmental, economic and legal impacts of international trade agreements and negotiations on the State; [2003, c. 699, §2 (NEW).]

C. Shall every 2 years conduct an assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment. The assessment must be submitted and made available to the public as provided for in the annual report in paragraph D; [2007, c. 266, §2 (AMD).]

D. Shall maintain active communications with and submit an annual report to the Governor, the Legislature, the Attorney General, municipalities, Maine's congressional delegation, the Maine International Trade Center, the Maine Municipal Association, the United States Trade Representative's Office, the National Conference of State Legislatures and the National Association of Attorneys General or the successor organization of any of these groups. The commission shall make the report easily accessible to the public by way of a publicly accessible site on the Internet maintained by the State. The report must contain information acquired pursuant to activities under paragraph B and may contain information acquired pursuant to activities under paragraph C; [2007, c. 266, §3 (AMD).]

E. Shall maintain active communications with any entity the commission determines appropriate regarding ongoing developments in international trade agreements and policy; [2003, c. 699, §2 (NEW).]

F. May recommend or submit legislation to the Legislature; [2003, c. 699, §2 (NEW).]

G. May recommend that the State support, or withhold its support from, future trade negotiations or agreements; and [2003, c. 699, §2 (NEW).]

H. May examine any aspects of international trade, international economic integration and trade agreements that the members of the commission consider appropriate. [2003, c. 699, §2 (NEW).]

[ 2007, c. 266, §§2, 3 (AMD) .]

**10. Outside funding.** The commission may seek and accept outside funding to fulfill commission duties. Prompt notice of solicitation and acceptance of funds must be sent to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council, along with an accounting that includes the amount received, the date that amount was received, from whom that amount was received, the purpose of the donation and any limitation on use of the funds. The executive director administers any funds received.

[ 2003, c. 699, §2 (NEW) .]

**11. Evaluation.** By December 31, 2009, the commission shall conduct an evaluation of its activities and recommend to the Legislature whether to continue, alter or cease the commission's activities.

[ 2003, c. 699, §2 (NEW) .]

#### SECTION HISTORY

2003, c. 689, Pt. B, §6 (REV). 2003, c. 699, §2 (NEW). 2007, c. 266, §§1-3 (AMD). 2011, c. 657, Pt. W, §5 (REV).

### **10 §12. QUORUM**

For purposes of holding a meeting, a quorum is 11 members. A quorum must be present to start a meeting but not to continue or adjourn a meeting. For purposes of voting, a quorum is 9 voting members. [2007, c. 266, §4 (NEW).]

#### SECTION HISTORY

2007, c. 266, §4 (NEW).

## 10 §13. LEGISLATIVE APPROVAL OF TRADE AGREEMENTS

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A. [2009, c. 385, §1 (NEW).]

B. "Trade agreement" means an agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade, procurement, services or investment among the parties to the agreement. "Trade agreement" includes, but is not limited to, any agreements under the auspices of the World Trade Organization, all regional free trade agreements, including the North American Free Trade Agreement and the Central America Free Trade Agreement and all bilateral agreements entered into by the United States, as well as requests for binding agreement received from the United States Trade Representative. [2009, c. 385, §1 (NEW).]

[ 2009, c. 385, §1 (NEW) .]

**2. State official prohibited from binding the State.** If the United States Government provides the State with the opportunity to consent to or reject binding the State to a trade agreement, or a provision within a trade agreement, then an official of the State, including but not limited to the Governor, may not bind the State or give consent to the United States Government to bind the State in those circumstances, except as provided in this section.

[ 2009, c. 385, §1 (NEW) .]

**3. Receipt of request for trade agreement.** When a communication from the United States Trade Representative concerning a trade agreement provision is received by the State, the Governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the President of the Senate, the Speaker of the House of Representatives, the Maine International Trade Center and the joint standing committees of the Legislature having jurisdiction over state and local government matters and business, research and economic development matters.

[ 2009, c. 385, §1 (NEW) .]

**4. Review by commission.** The commission, in consultation with the Maine International Trade Center, shall review and analyze the trade agreement and issue a report on the potential impact on the State of agreeing to be bound by the trade agreement, including any necessary implementing legislation, to the Legislature and the Governor.

[ 2009, c. 385, §1 (NEW) .]

**5. Legislative approval of trade agreement required.** Unless the Legislature by proper enactment of a law authorizes the Governor or another official of the State to enter into the specific proposed trade agreement, the State may not be bound by that trade agreement.

[ 2009, c. 385, §1 (NEW) .]

### SECTION HISTORY

2009, c. 385, §1 (NEW) .

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**APPENDIX B**  
**Citizen Trade Policy Commission Membership Lists**



## **CITIZEN TRADE POLICY COMMISSION**

Membership after appointments made between June 2011 and December 2012

### **Appointment(s) by the Governor**

Vacant	Representing Nonprofit Organizations Promoting Fair Trade Policies
<b>John Palmer</b> P.O. Box 519 Oxford, ME 04270 207-539-4800	Representing Small Business
<b>Harry Ricker</b> 35 Macintosh Drive Turner Me 04282 754-3455	Representing Small Farmers

### **Appointments by the President of the Senate**

<b>Sen. Roger L. Sherman -Chair</b> P.O. Box 682 Houlton, ME 04730 207-532-7073	Senate Member
<b>Sen. Thomas Martin Jr.</b> 1308 Clinton Ave. Benton, ME 04901	Senate Member
<b>Sen. John L. Patrick</b> 206 Strafford Avenue Rumford, ME 04276	Senate Member
<b>Stephen Cole</b> 80 Bristol Road Damariscotta, ME 04543	Representing Economic Development Organizations
<b>Michael S. Hiltz</b> 45 Pleasant Avenue Portland, ME 04103	Representing Health Care Professionals
<b>Joseph Woodbury</b> 508 Gore Road Otisfield, ME 04270	Representing Maine-based Manufacturing Business with More than 25 Employees

## **Appointments by the Speaker of the House**

**Rep. Joyce Maker - Chair**  
89 Lafayette Street  
Calais, ME 04619

**House Member**

**Rep. Bernard Ayotte**  
1469 Van Buren Road  
Caswell, ME 04750  
207-325-4905

**House Member**

**Rep. Margaret Rotundo**  
446 College Street  
Lewiston, ME 04240  
207-784-3259

**House Member**

**Connie Jones**  
Mid Coast Chapter, American Red Cross  
16 Community Way  
Topsham, ME 04086

**Representing Nonprofit Human Rights Organizations**

**Michael Herz**  
P.O. Box 1462  
Damariscotta, ME 04543

**Representing Nonprofit Environmental Organizations**

**Jay Wadleigh**  
International Association of Machinists  
40 Wadleigh Way  
Belgrade, ME 04917

**Representing Organized Labor**

## **Attorney General**

**Linda Pistner**  
6 State House Station  
Augusta, ME 04333-0006  
207-626-8821

**Attorney General or designee**

## **Commissioner, Department of Agriculture**

Vacant

**Commissioner or designee**

**Commissioner, Department of  
Environmental Protection**

**Michael Karagiannes**  
DEP  
17 State House Station  
Augusta, ME 04333-0017  
207-287-8662

**Commissioner or designee**

**Commissioner, Department of Health &  
Human Services**

**Vacant**

**Commissioner or designee**

**Commissioner, Department of Labor**

**Pamela Taylor**  
ME Department of Labor  
45 State House Station  
Augusta, ME 04333-0045  
207-623-7932

**Commissioner or designee**

**Director, Maine International Trade  
Center**

**Wade Merritt**  
511 Congress Street  
Portland, ME 04101  
207-541-7400

**Representing Maine International Trade Center**

**Staff:**

Danielle Fox, Legislative Analyst  
Alyson Mayo, Legislative Analyst  
Office of Policy and Legal Analysis  
207-287-1670



## **CITIZEN TRADE POLICY COMMISSION**

Membership after appointments made between January 2011 and June 2011

### **Appointment(s) by the Governor**

Vacant	<b>Representing Nonprofit Organizations Promoting Fair Trade Policies</b>
<b>John Palmer</b> P.O. Box 519 Oxford, ME 04270 207-539-4800	<b>Representing Small Business</b>
<b>Bob St. Peter</b> 3 Flower Farm Lane Sedgewick, ME 04676	<b>Representing Small Farmers</b>
<b>Harry Ricker</b> 35 Macintosh Drive Turner Me 04282 754-3455	<b>Representing a Maine-based corporation that is active in international trade</b>

### **Appointments by the President of the Senate**

<b>Sen. Roger L. Sherman</b> P.O. Box 682 Houlton, ME 04730 207-532-7073	<b>Senate Member</b>
<b>Sen. Thomas Martin Jr.</b> 1308 Clinton Ave. Benton, ME 04901	<b>Senate Member</b>
<b>Sen. John L. Patrick</b> 206 Strafford Avenue Rumford, ME 04276	<b>Senate Member - Chair</b>
<b>Stephen Cole</b> 80 Bristol Road Damariscotta, ME 04543	<b>Representing Economic Development Organizations</b>
<b>Michael S. Hiltz</b> 45 Pleasant Avenue Portland, ME 04103	<b>Representing Health Care Professionals</b>
<b>Joseph Woodbury</b> 508 Gore Road Otisfield, ME 04270	<b>Representing Maine-based Manufacturing Business with More than 25 Employees</b>

## **Appointments by the Speaker of the House**

**Rep. Joyce Maker - Chair**  
89 Lafayette Street  
Calais, ME 04619

**House Member**

**Rep. Bernard Ayotte**  
1469 Van Buren Road  
Caswell, ME 04750  
207-325-4905

**House Member**

**Rep. Margaret Rotundo**  
446 College Street  
Lewiston, ME 04240  
207-784-3259

**House Member**

**Connie Jones**  
Mid Coast Chapter, American Red Cross  
16 Community Way  
Topsham, ME 04086

**Representing Nonprofit Human Rights Organizations**

**Michael Herz**  
P.O. Box 1462  
Damariscotta, ME 04543

**Representing Nonprofit Environmental Organizations**

**Jay Wadleigh**  
International Association of Machinists  
40 Wadleigh Way  
Belgrade, ME 04917

**Representing Organized Labor**

## **Attorney General**

**Linda Pistner**  
6 State House Station  
Augusta, ME 04333-0006  
207-626-8821

**Attorney General or designee**

## **Commissioner, Department of Agriculture**

**Walter E. Whitcomb**  
Maine Department of Agriculture, Food and Rural Resources  
28 State House Station  
Augusta, ME 04333-0028  
207-287-3871

**Commissioner or designee**

**Commissioner, Department of  
Environmental Protection**

**Malcolm Burson**

DEP

17 State House Station  
Augusta, ME 04333-0017  
207-287-8662

**Commissioner or designee**

**Commissioner, Department of Health &  
Human Services**

**Barbara Van BurgeI**

DHHS

Bureau of Family Independence  
11 State House Station  
Augusta, ME 04333-0011  
207-287-3106

**Commissioner or designee**

**Commissioner, Department of Labor**

**Michael Roland**

ME Department of Labor  
45 State House Station  
Augusta, ME 04333-0045  
207-623-7932

**Commissioner or designee**

**Director, Maine International Trade  
Center**

**Wade Merritt**

511 Congress Street  
Portland, ME 04101  
207-541-7400

**Representing Maine International Trade Center**

**Staff:**

Danielle Fox, Legislative Analyst  
Alyson Mayo, Legislative Analyst  
Office of Policy and Legal Analysis  
207-287-1670



**APPENDIX C**  
**Common International Trade Acronyms**



## **Common International Trade Acronyms**

BIT – Bilateral Investment Treaty  
CTPC – Citizen Trade Policy Commission  
FTA – Free Trade Agreement  
GATS – General Agreement on Trade in Services  
GATT – General Agreement on Tariff and Trade  
IGPAC – Intergovernmental Policy Advisory Committee  
IIA – International Investment Agreement  
LNG – Liquefied Natural Gas  
MITC – Maine International Trade Center  
MST – Minimum Standard of Treatment  
NAFTA – North American Free Trade Agreement  
NCSL – National Conference of State Legislatures  
SCM – Subsidies and Countervailing Measures (Agreement)  
TAA – Trade Adjustment Assistance (Program)  
TBT – Technical Barriers on to Trade  
TPP(A)- Trans-Pacific Partnership Agreement  
USTR – United States Trade Representative  
VAT – Value Added Tax  
WHO – World Health Organization  
WPDR – Working Party on Domestic Regulation  
WTO – World Trade Organization



## **APPENDIX D**

**Trade Adjustment Assistance Reform Act of 2002**  
**Information from Judy Pelletier, Maine Department of Labor**



For Trade Certifications numbered 50,000- 69,999 or 80,000+

Has your job been adversely affected by foreign competition?

The Trade Adjustment Assistance (TAA) Program includes among eligible workers those directly affected by increased imports or certain shifts of production to other countries. Eligible workers also include secondarily affected workers of an upstream supplier or downstream producer to a certified primary firm. When a layoff or work reduction occurs, a petition for TAA must be filed with the U.S. Department of Labor (USDOL) and the TAA Coordinator by:

- A group of 3 or more workers
- A certified union official or representative
- Official of the employer/firm
- One Stop operators or partner
- State dislocated worker unit staff

The petition and help completing the petition is available from CareerCenters and other State Workforce Agency offices. Filing a petition will trigger immediate rapid response and basic adjustment services to workers. Rapid reemployment is the goal. The USDOL has forty calendar days to complete its investigation and certify eligibility.

Benefits Available through the Trade Act

- Re-employment Services
- Training and Related Expense Reimbursement
- Trade Readjustment Allowance (TRA)
- Health Coverage Tax Credit
- Job Search Allowance
- Relocation Allowance
- Alternative Trade Adjustment Assistance (ATAA)

How can you qualify for these benefits?

- You must complete a TRA-26, "Request for Determination of Initial Entitlement to TAA/TRA"
- You must be pre-approved for all TAA/TRA services and benefits by a CareerCenter consultant
- You must be enrolled in training 8 weeks after the petition certification date or 16 weeks after separation
- You must complete an employability plan within 210 days of your company's first TAA certification, or, if later, within 210 days of your most recent layoff, to lock in additional TRA benefits

Re-employment Services

- Job search strategies
- Resume, cover letters, applications
- Referrals to jobs
- Labor Market Information
- Interview preparation

Training – up to 104 weeks

- On-the-Job Training
- Occupational Training
- Customized Training
- Remedial Training
- Other training related expenses
  - Tuition, books, fees, tools, and uniforms
  - Travel expenses (if beyond normal commute)
  - Subsistence allowance (if training is not available within your commuting area.)

Six criteria applied to program before training can be approved

1. Suitable employment is not available for you (Your CareerCenter consultant will match your skill level, salary, and commuting area to jobs listed)
2. You will benefit from training
3. You can reasonably expect to find employment following completion of your training program
4. Training is reasonably available to you (travel/subsistence)
5. You meet entry level education/training program requirements and have the financial resources to carry you through
6. Training is suitable for you and available at a reasonable cost

Trade Readjustment Allowance (TRA) – Weekly Benefits

(You must file a weekly claim and meet eligibility requirements to be paid.)

- Up to 26 weeks of regular unemployment benefits
- Up to 26 weeks of basic TRA
- Up to 52 weeks of additional TRA
- Up to 26 weeks of TRA benefits if in remedial training

Duration of Training

- Regular training is available for up to 104 weeks
- Remedial education is available for up to 26 *additional weeks* for a maximum total of 130 weeks.

Additional TRA Allowances – You may be able to collect up to 52 weeks of additional TRA if you use up your unemployment insurance and Basic TRA benefits. If you need more time and financial help to complete your training, you can apply for the additional TRA benefits. The additional benefits can only be paid to you if you applied for your training program within 210 days of your company's first TAA certification, or, if later, within 210 days of your most recent layoff.

Break in Training – If you have more than a 30-day break in your TAA training (not counting National and State holidays and weekends), TRA benefits are not payable. TRA payments will resume when your approved TAA training starts again.

Six specific situations when training can be waived

1. You have a written note that you will be recalled within 6 months (specific recall date is required)
2. You have marketable skills (determined by assessment)
3. You are within 2 years of qualifying for Social Security or a privately sponsored pension
4. You are in poor health but can actively seek and accept full time work
5. You are determined eligible for training but the first available enrollment date is delayed (training must begin within 60 days)
6. Training is not available at a reasonable cost or funds are not available under TAA or other Federal laws

Job Search Requirements – If you complete training or receive a waiver from training, you must actively seek full time employment to receive Basic TRA benefits. CareerCenter staff will help you through your work search. Re-employment is the goal!

Health Coverage Tax Credit (HCTC)

- You must be covered under a TAA certification of eligibility for TAA benefits.
- Your HCTC eligibility may begin on the 61<sup>st</sup> day after the date the petition was filed.
- You must be entitled to UI benefits.
- You must be enrolled in approved training, have completed a training program or have obtained a waiver. (This requirement is applicable during the period that you are receiving TRA as well as UI.)
- You must have received TRA or UI benefits on any day of the month to qualify for HCTC that month.
- You are eligible for an additional month after ceasing to be an eligible TAA recipient and as such remain eligible for the advanced tax credit for one more month.
- You must call toll free 1-866-628-4282 to apply for an advance tax credit – if eligible, the HCTC office will pay 80% of your health insurance premium – you pay 20%.

#### Job Search Allowance

- You must be pre-approved by your CareerCenter Consultant to seek work beyond your normal commuting area
- 90% of the cost of expenses for meals, lodging, and mileage may be refunded to you to the nearest suitable employment opportunity with a maximum amount of \$1,250

#### Relocation Allowance

- You must be pre-approved by your CareerCenter Consultant to seek suitable work beyond your normal commuting area (Certain deadlines apply – see your Consultant)
- You must live 50 miles or more from your new place of work
- You must have a written offer of employment

For more information and help with the TAA Program, contact one of our staff at your local CareerCenter.

**AUGUSTA**  
21 Enterprise Drive, Suite 2  
109 SHS  
Augusta, ME 04333-0109  
624-5120 or 1-800-760-1573  
TTY: (207) 624-5134 or 1-800-  
633-0770  
Fax: (207) 287-6236

**BANGOR**  
45 Oak Street, Suite #3  
Bangor, ME 04401-6667  
561-4050 or 1-888-828-0568  
TTY: 1-800-498-6711  
Fax: 561-4066

**BRUNSWICK**  
275 Bath Road, Suite #3  
Brunswick, ME 04011  
373-4000 or 1-888-836-3355  
TTY: 1-800-697-2871  
Fax: 373-4004

**CALAIS**  
One College Dr., PO Box 415  
Calais, ME 04619-0415  
454-7551 or 1-800-543-0303  
TTY: 1-888-697-2883  
Fax: 454-0349

**LEWISTON**  
5 Mollison Way  
Lewiston, ME 04240-5805  
753-9000 or 1-800-741-2991  
TTY: 1-877-796-9833  
Fax: 783-5301

**MACHIAS**  
15 Prescott Drive, Suite 1  
Machias, ME 04654-9752  
255-1900 or 1-800-292-8929  
TTY: 1-800-381-9932  
Fax: 255-4778

- Your new job must be within the continental United States
- 90% of the total cost of the following to the nearest suitable employment opportunity
  - Cost of meals, lodging, and mileage
  - Cost of moving your household goods and personal and family effects (lesser of 2 estimates)
  - Up to 2 months storage
- A lump sum payment equal to 3 times your average weekly wage (maximum \$1,250)

#### Alternative Trade Adjustment Assistance (ATAA) Demonstration Project for Older Workers Wage Supplement

- Criteria must be met for group certification
- You must be at least 50 years old
- You must start a new job within 26 weeks of layoff from the TAA certified company
- You may receive 50% of difference between reemployment wages and wages earned at separation
  - Payments may not last more than 2 years
  - Total payments may not exceed \$10,000 over 2 year period (whichever of these runs out first)

**REMINDER:** CareerCenter staff must approve training programs, job search allowances and relocation allowances in advance. The HCTC toll free number is 1-866-628-4282.

**PORTLAND**  
185 Lancaster Street  
Portland, ME 04101-2453  
771-5627 or 1-877-594-5627  
TTY: 1-888-817-7113  
Fax: 822-0221

**PRESQUE ISLE**  
66 Spruce Street, Suite #1  
Presque Isle, ME 04769-3222  
760-6300 or 1-800-635-0357  
TTY: 1-888-697-2877  
Fax: 760-6350

**ROCKLAND**  
91 Camden Street, Suite 201  
Rockland, ME 04841-2421  
596-2600 or 1-877-421-7916  
TTY: 1-888-212-6229  
Fax: 594-1428

**SKOWHEGAN**  
98 North Avenue  
Skowhegan, ME 04976-1923  
474-4950 or 1-800-760-1572  
TTY: 1-888-697-2912  
Fax: 474-4914

**SPRINGVALE**  
9 Bodwell Court  
Springvale, ME 04083-1801  
324-5460 or 1-800-343-0151  
TTY: 1-888-697-2913  
Fax: 324-7069

**WILTON**  
865 US Route 2E  
Wilton, ME 04294-6649  
645-5800 or 1-800-982-4311  
TTY: 1-888-697-2895  
Fax: 645-2093

## **APPENDIX E**

### **Letters Sent from the Citizen Trade Policy Commission**



Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
Rep. Margaret Rotundo

Heather Parent  
Stephen Cole  
Michael Herz  
Michael Hiltz  
Connie Jones



Wade Merritt  
John Palmer  
Linda Pistner  
Harry Ricker  
Michael Roland  
Jay Wadleigh  
Joseph Woodbury

*Staff:*  
*Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

December 15, 2011

Secretary Tim Geithner  
U.S. Department of the Treasury  
Federal Insurance Office  
MT 1001  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Re: Input on the Report to Congress on How to Modernize and Improve the System of Insurance Regulation in the United States

Dear Secretary Geithner,

We are writing on behalf of the Maine Citizen Trade Policy Commission in response to the Department of Treasury's request for comment on How to Modernize and Improve the System of Insurance Regulation in the United States.

When the Restoring of Financial Stability Act of 2010, later amended in conference committee to the Dodd-Frank Wall Street Reform and Consumer Protection Act, was first proposed, it included provisions that preempted state insurance laws if such laws are perceived to be inconsistent with international trade agreements. At that time, the Commission expressed strong opposition to those provisions in a letter to Senator Dodd.

The Commission maintains its opposition and would like to take this opportunity to encourage the Treasury to recommend against any similar provisions for future insurance regulation. The Commission's letter to Senator Dodd is attached and outlines our rationale for opposition.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that appears to read "Roger L. Sherman".  
Senator Roger Sherman, co-chair

A handwritten signature in black ink that appears to read "Joyce Maker".

Representative Joyce Maker, co-chair

Cc:

Senator Susan M. Collins  
Senator Olympia J. Snowe  
Representative Michael Michaud  
Representative Chellie Pingree  
Governor Paul LePage

Sen. Troy Jackson, Chair  
Sen. Stan Gerzofsky  
Sen. Roger Sherman  
Rep. Margaret Rotundo, Chair  
Rep. Jefferay A. Gifford  
Rep. Sharon Anglin Treat

Jane Aiudi  
Malcolm Burson  
Leslie Manning  
Wade Merritt  
Linda Pistner  
Barbara VanBurgel



Sarah Adams Bigney  
Carla Dickstein  
Michael Herz  
Michael Hiltz  
John Palmer  
John L. Patrick  
Cynthia Phinney  
Paul Volckhausen  
Joseph Woodbury

Curtis Bentley, Legislative Analyst

STATE OF MAINE

## Citizen Trade Policy Commission

April 16, 2010

The Honorable Christopher J. Dodd, Chairman  
Committee on Banking, Housing, & Urban Affairs  
United States Senate  
448 Russell Senate Office Building  
Washington, DC 20510

Re: Restoring American Financial Stability Act of 2010

Dear Senator Dodd:

We are writing on behalf of the Maine Citizen Trade Policy Commission which by unanimous vote today expressed its strong opposition to the Office of National Insurance (ONI), created by Title V, Subtitle A of the Restoring American Financial Stability Act of 2010 (Chairman's Mark, Senate Standing Committee on Banking, Housing, & Urban Affairs). Subtitle A would establish a new federal bureaucracy (ONI) and give one person the power to invalidate state insurance laws that are perceived as "inconsistent with" international agreements.

We are concerned that this legislation bypasses the trade negotiation and implementation process and vests in one person in the Treasury Department the power to preempt validly enacted state laws – without waiting for a specific allegation of a trade violation, and based on a vague and expansive definition of potentially affected trade agreements. All of this would be done without any of the protections provided by the U.S. Constitution when international treaties are negotiated and Congress preempts state law. Disturbingly, even a treaty that has been submitted for ratification and defeated could be considered an "agreement" with preemptive force.

The Maine Citizen Trade Policy Commission (CTPC) is a bipartisan commission established in 2003 to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment, and to make policy recommendations to the Legislature and the Governor concerning the impact of trade agreements

and trade-related policies. In our view, the preemption provisions of Subtitle A reach well beyond the scope of current trade policy and constitute an unprecedented intrusion into matters reserved to the states.

We are cognizant that international agreements can have an impact on state policies, and indeed the CTPC has an advisory role within Maine to insure that policy makers are aware of the parameters of trade policy. Subtitle A goes well beyond any trade policy we are aware of and vests within one agency employee the power to sweep aside state insurance laws regulating purely domestic markets, such as licensing laws or laws requiring the use of U.S. statutory accounting principles. Any “international insurance agreement” with a foreign government or regulatory entity (even a non-governmental entity) could be used by this federal employee as the rationale for an action to preempt state-based standards, overturning the actions of state legislatures without resort to the courts or to international trade dispute resolution tribunals.

We urge you to strike the preemption provisions and the authority given to Treasury to negotiate and enter into new international insurance agreements in Title V, Subtitle A.

Thank you for your consideration.

Sincerely,

Senator Troy Jackson, co-chair

Representative Peggy Rotundo, co-chair

cc:

Senator Susan M. Collins  
Senator Olympia J. Snowe  
Senator Harry Reid  
The Honorable Michael Michaud  
The Honorable Chellie M. Pingree  
Mila Kofman, Superintendent of Insurance  
Janet Mills, Attorney General

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
Rep. Margaret Rotundo

Heather Parent  
Stephen Cole  
Michael Herz  
Michael Hiltz  
Connie Jones



Wade Merritt  
John Palmer  
Linda Pistner  
Harry Ricker  
Michael Roland  
Jay Wadleigh  
Joseph Woodbury

*Staff:*  
*Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

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### Re: Canada's Expression of Interest in the Trans-Pacific Partnership Trade Negotiations

January 11, 2012

Mr. Paul Kirk, Ambassador  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Ambassador Kirk,

We are writing to you in reference to the December 7, 2011 notice in the Federal Register requesting comments on Canada's Expression of Interest in the Trans-Pacific Partnership Trade Negotiations.

The Maine Citizen Trade Policy Commission is authorized by current Maine law [10MRSA§11(3)] "...to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." In seeking to fulfill its statutory mandate, during its most recent meeting on December 15, 2011, the Commission voted unanimously to submit this letter to you stating our strong opposition to the possible inclusion of Canada, Mexico or Japan in the proposed Trans-Pacific Partnership negotiations.

Our opposition to the proposed inclusion of these countries in the TPPA is based on a number of concerns and includes:

- The original purpose and design of the TPPA was intended as an international trade agreement among the Pacific Rim countries. Including nations such as Canada with a large international economy and a contiguous border with Maine and other states in a binding trade agreement represents a significant departure from the original purpose and scope of the TPPA and an ominous threat to state sovereignty and existing trade relationships between Maine and these countries;
- The possibility of adding these neighboring countries and large trade partners also amplifies a concern about the loss of transparency that often occurs in this type of international trade agreement. Since the details of the negotiating process are confidential and yet the items being negotiated are often of paramount importance from a state's perspective, the inclusion of large trading partners tends to further diminish state sovereignty over matters such as business and environmental regulation and the procurement policies of state government without any meaningful opportunity for the state to comment until after the agreement has been finalized thereby rendering any state participation as essentially meaningless and without influence;
- From a state perspective, the possible inclusion of large trading partners like Canada, Japan and Mexico in the TPPA also magnifies concerns about the dispute resolution process that typically emerges from trade agreements of this magnitude. For a state such as Maine that has a large contiguous border and extensive trade with a contemplated treaty member such as Canada, a dispute resolution process that takes the state out of the process and instead substitutes the USTR as the defender of particular state regulations and trade deals is a potentially disastrous blow to state sovereignty and the ability to develop, enforce and negotiate

Citizen Trade Policy Commission  
c/o Office of Policy & Legal Analysis  
State House Station #13, Augusta, ME 04333-0013 Telephone: 207 287-1670  
<http://www.maine.gov/legis/opla/citpol.htm>

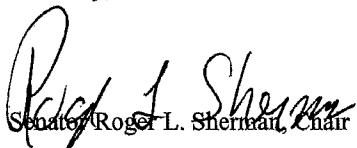
its trading relationships with a country such as Canada. A dispute resolution process that takes the state out of the direct loop in determining a fair outcome and yet imposes possible consequences is inherently unfair and is likely to be extremely detrimental to continued efforts by the state to manage its own economy, environment and overall public welfare;

- Further, the tendency of recent trade agreements to reach beyond the trade of tangible goods and intrude upon specific non-trade regulations and practices is an unwarranted intrusion upon a state's inherent ability to determine its own policies which include public health and safety, environmental and natural resource protection and allowable business practices; and
- Finally, the sum effect of all these aforementioned effects is manifested in the willingness of corporations using foreign investor rights provided by these agreements to purposefully use the provisions of a larger trade agreement like that contemplated for the TPPA to circumvent well conceived state regulations and policies to achieve their own narrow goals and objectives.

In closing, we wish to reiterate our strong opposition to the possible inclusion of including Canada, Mexico and Japan in the TPPA as an unwise and unjustified usurpation of state sovereignty in crucial matters of regulation, business practice and policy decisions regarding public health and welfare.

Thank you for the opportunity to make these comments. Please do not hesitate to contact either of us with any questions that you may have regarding the Commission's position on this issue

Sincerely,



Senator Roger L. Sherman, Chair



Representative Joyce Maker, Chair

Cc: Governor Paul R. LePage  
Senator Olympia J. Snowe  
Senator Susan M. Collins  
Representative Michael H. Michaud  
Representative Chellie Pingree

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
Rep. Margaret Rotundo

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Joseph Woodbury

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STATE OF MAINE

## Citizen Trade Policy Commission

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600 17th Street NW  
Washington, DC 20508

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- The original purpose and design of the TPPA was intended as an international trade agreement among the Pacific Rim countries. Including nations such as Japan with a large international economy in a binding trade agreement represents a significant departure from the original purpose and scope of the TPPA and an ominous threat to state sovereignty and existing trade relationships between Maine and these countries;
- The possibility of adding these neighboring countries and large trade partners also amplifies a concern about the loss of transparency that often occurs in this type of international trade agreement. Since the details of the negotiating process are confidential and yet the items being negotiated are often of paramount importance from a state's perspective, the inclusion of large trading partners tends to further diminish state sovereignty over matters such as business and environmental regulation and the procurement policies of state government without any meaningful opportunity for the state to comment until after the agreement has been finalized thereby rendering any state participation as essentially meaningless and without influence;
- From a state perspective, the possible inclusion of large trading partners like Canada, Japan and Mexico in the TPPA also magnifies concerns about the dispute resolution process that typically emerges from trade agreements of this magnitude. A dispute resolution process that takes states out of the process and instead substitutes the USTR as the defender of particular state regulations and trade deals is a potentially disastrous blow to state sovereignty and the ability to develop, enforce and negotiate its trading relationships with a country such as Mexico. A dispute resolution process that takes the state out of the direct loop in determining a fair outcome and yet imposes possible consequences is inherently unfair and is

Citizen Trade Policy Commission  
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State House Station #13, Augusta, ME 04333-0013 Telephone: 207 287-1670  
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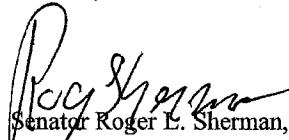
likely to be extremely detrimental to continued efforts by the state to manage its own economy, environment and overall public welfare;

- Further, the tendency of recent trade agreements to reach beyond the trade of tangible goods and intrude upon specific non-trade regulations and practices is an unwarranted intrusion upon a state's inherent ability to determine its own policies which include public health and safety, environmental and natural resource protection and allowable business practices; and
- Finally, the sum effect of all these aforementioned effects is manifested in the willingness of corporations using foreign investor rights provided by these agreements to purposefully use the provisions of a larger trade agreement like that contemplated for the TPPA to circumvent well conceived state regulations and policies to achieve their own narrow goals and objectives.

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Thank you for the opportunity to make these comments. Please do not hesitate to contact either of us with any questions that you may have regarding the Commission' position on this issue

Sincerely,



Senator Roger E. Sherman, Chair



Representative Joyce Maker, Chair

Cc: Governor Paul R. Lepage  
Senator Olympia J. Snowe  
Senator Susan M. Collins  
Representative Michael H. Michaud  
Representative Chellie Pingree

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
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Joseph Woodbury

*Staff:  
Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

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### Re: Mexico's Expression of Interest in the Trans-Pacific Partnership Trade Negotiations

January 11, 2012

Mr. Paul Kirk, Ambassador  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Ambassador Kirk,

We are writing to you in reference to the December 7, 2011 notice in the Federal Register requesting comments on Mexico's Expression of Interest in the Trans-Pacific Partnership Trade Negotiations.

The Maine Citizen Trade Policy Commission is authorized by current Maine law [10MRSA§11(3)] "...to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." In seeking to fulfill its statutory mandate, during its most recent meeting on December 15, 2011, the Commission voted unanimously to submit this letter to you stating our strong opposition to the possible inclusion of Mexico, Canada, or Japan in the proposed Trans-Pacific Partnership negotiations.

Our opposition to the proposed inclusion of these countries in the TPPA is based on a number of concerns and includes:

- The original purpose and design of the TPPA was intended as an international trade agreement among the Pacific Rim countries. Including nations such as Mexico with a large international economy and a contiguous border with other states in a binding trade agreement represents a significant departure from the original purpose and scope of the TPPA and an ominous threat to state sovereignty and existing trade relationships between Maine and these countries;
- The possibility of adding these neighboring countries and large trade partners also amplifies a concern about the loss of transparency that often occurs in this type of international trade agreement. Since the details of the negotiating process are confidential and yet the items being negotiated are often of paramount importance from a state's perspective, the inclusion of large trading partners tends to further diminish state sovereignty over matters such as business and environmental regulation and the procurement policies of state government without any meaningful opportunity for the state to comment until after the agreement has been finalized thereby rendering any state participation as essentially meaningless and without influence;
- From a state perspective, the possible inclusion of large trading partners like Canada, Japan and Mexico in the TPPA also magnifies concerns about the dispute resolution process that typically emerges from trade agreements of this magnitude. A dispute resolution process that takes states out of the process and instead substitutes the USTR as the defender of particular state regulations and trade deals is a potentially disastrous blow to state sovereignty and the ability to develop, enforce and negotiate its trading relationships with a country such as Mexico. A dispute resolution process that takes the state out of the

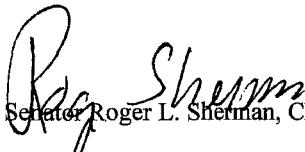
direct loop in determining a fair outcome and yet imposes possible consequences is inherently unfair and is likely to be extremely detrimental to continued efforts by the state to manage its own economy, environment and overall public welfare;

- Further, the tendency of recent trade agreements to reach beyond the trade of tangible goods and intrude upon specific non-trade regulations and practices is an unwarranted intrusion upon a state's inherent ability to determine its own policies which include public health and safety, environmental and natural resource protection and allowable business practices; and
- Finally, the sum effect of all these aforementioned effects is manifested in the willingness of corporations using foreign investor rights provided by these agreements to purposefully use the provisions of a larger trade agreement like that contemplated for the TPPA to circumvent well conceived state regulations and policies to achieve their own narrow goals and objectives.

In closing, we wish to reiterate our strong opposition to the possible inclusion of including Canada, Mexico and Japan in the TPPA as an unwise and unjustified usurpation of state sovereignty in crucial matters of regulation, business practice and policy decisions regarding public health and welfare.

Thank you for the opportunity to make these comments. Please do not hesitate to contact either of us with any questions that you may have regarding the Commission's position on this issue

Sincerely,



Senator Roger L. Sherman, Chair



Representative Joyce Maker, Chair

Cc: Governor Paul R. LePage  
Senator Olympia J. Snowe  
Senator Susan M. Collins  
Representative Michael H. Michaud  
Representative Chellie Pingree

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
Rep. Margaret Rotundo

Heather Parent  
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Connie Jones



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Joseph Woodbury

*Staff:  
Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

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March 6, 2012

The Honorable Ron Kirk  
Trade Ambassador  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Mr. Ambassador:

The Maine Citizen Trade Policy Commission "... is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." In seeking to fulfill its statutory mandate, the Commission voted unanimously during its meeting of February 10, 2012 to submit this letter to you urging your support for significant changes in the process used to negotiate and accept foreign trade policy agreements such as, but not limited to, the Trans-Pacific Partnership Agreement (TPPA).

Maine has traditionally supported international trade when fair rules of trade are in place. As do other states, Maine intends to be an active participant in the global economy. From the Commission's perspective, the current process used to inform, negotiate and accept the provisions of a foreign trade treaty like the TPPA is in need of significant improvement.

Specifically, the Commission remains concerned that recent international trade agreements may have a negative impact on the State's constitutionally guaranteed authority to protect not only the public health, safety and welfare, but also

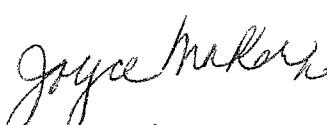
regulatory authority. The Commission believes this situation has occurred in large part because the process used to formulate United States trade policy lacks transparency, fails to properly recognize the principles of state sovereignty and is bereft of any meaningful opportunity for Congressional review and acceptance. The current process minimizes the opportunity for meaningful input and review, and the Commission suggests there should be an opportunity for process change with significant improvements in transparency and participation.

Please contact us with any questions that you may have regarding the Commission's position on these issues.

Sincerely,



Senator Roger L. Sherman, Chair



Representative Joyce Maker, Chair

Cc: Governor Paul R. Lepage  
Senator Olympia J. Snowe  
Senator Susan M. Collins  
Representative Michael H. Michaud  
Representative Chellie Pingree  
State Representative Sharon Treat

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
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Joseph Woodbury

*Staff:*  
*Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

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March 13, 2012

Representative Dave Camp, Chairman  
House Ways and Means Committee  
Ways and Means Committee Office  
1102 Longworth House Office Building  
Washington D.C. 20515

Dear Chairman Camp:

The Maine Citizen Trade Policy Commission "... is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." In seeking to fulfill its statutory mandate, the Commission voted unanimously during its meeting of March 9, 2012 to submit this letter to you and other members of the Ways and Means Committee offering our comments on President Obama's Trade Policy Agenda. In particular, we are advocating for significant changes in the process used to negotiate and accept foreign trade policy agreements such as, but not limited to, the Trans-Pacific Partnership Agreement (TPPA).

Maine has traditionally supported international trade when fair rules of trade are in place. As do other states, Maine intends to be an active participant in the global economy. From the Commission's perspective, the current process used to inform, negotiate and accept the provisions of a foreign trade treaty like the TPPA is in need of significant improvement.

Specifically, the Commission remains concerned that recent international trade agreements may have a negative impact on the State's constitutionally guaranteed

authority to protect not only the public health, safety and welfare, but also regulatory authority. The Commission believes this situation has occurred in large part because the process used to formulate United States trade policy lacks transparency, fails to properly recognize the principles of state sovereignty and is bereft of any meaningful opportunity for Congressional review and acceptance. The current process minimizes the opportunity for meaningful input and review, and the Commission suggests there should be an opportunity for process change with significant improvements in transparency and participation.

In addition, the Commission strongly supports the recently stated position of the Australian government in opposition to inclusion of investor-state dispute settlement (ISDS) clauses in the TPPA. As you know, ISDS clauses give businesses from one country the power to take international legal action against the government of another country over breaches in an international trade treaty. The practical effect of ISDS clauses is the possible abrogation of federal, state and municipal law due to certain interpretations of foreign trade treaties like the TPPA. The Commission believes that, regardless of the particular national perspective in question, that the use of ISDS clauses undermines federal, state and municipal sovereignty and should not be included in international trade treaties like the TPPA.

Please contact us with any questions that you may have regarding the Commission's position on these issues.

Sincerely,



Senator Roger L. Sherman, Chair



Representative Joyce Maker, Chair

Cc: Governor Paul R. LePage  
Senator Olympia J. Snowe  
Senator Susan M. Collins  
Representative Michael H. Michaud  
Representative Chellie Pingree  
State Representative Sharon Treat

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
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Jay Wadleigh  
Joseph Woodbury

*Staff:  
Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

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March 23, 2012

The Honorable Ron Kirk  
Trade Ambassador  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Mr. Ambassador:

The Maine Citizen Trade Policy Commission "... is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements."

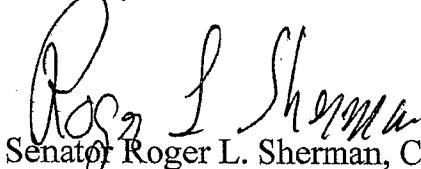
We recently sent you a letter on March 6, 2012 stating our concerns about the manner in which international trade treaties are currently negotiated and the overall need for greater transparency and meaningful congressional consultation and review. Since that time, the Commission met on March 9, 2012 and unanimously voted to send you this additional letter of concern.

The Commission strongly supports the recently stated position of the Australian government in opposition to inclusion of investor-state dispute settlement (ISDS) clauses in the TPPA. As you know, ISDS clauses give businesses from one country the power to take international legal action against the government of another country over breaches in an international trade treaty. The practical effect of ISDS clauses is the possible abrogation of federal, state and municipal law due to certain interpretations of foreign trade treaties like the TPPA. The Commission believes that, regardless of the particular national perspective in question, that the

use of ISDS clauses undermines federal, state and municipal sovereignty and should not be included in international trade treaties like the TPPA.

Please contact us with any questions that you may have regarding the Commission's position on these issues.

Sincerely,



Senator Roger L. Sherman, Chair



Representative Joyce Maker, Chair

Cc: Governor Paul R. Lepage  
Senator Olympia J. Snowe  
Senator Susan M. Collins  
Representative Michael H. Michaud  
Representative Chellie Pingree  
State Representative Sharon Treat

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
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Heather Parent  
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Michael Hiltz  
Connie Jones



Wade Merritt  
John Palmer  
Linda Pistner  
Harry Ricker  
Michael Roland  
Jay Wadleigh  
Joseph Woodbury

*Staff:*  
*Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

August 1, 2012

The Honorable Ronald Kirk  
Trade Ambassador  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Mr. Probir Mehta  
Deputy Assistant for Intellectual Property & Innovation  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Re: 2012 Trade Policy Assessment; commissioned by the Maine Citizen Trade Policy Commission

Dear Ambassador Kirk and Mr. Mehta:

As you may know, the Citizen Trade Policy Commission (CTPC) is required by current Maine Law (10 MRSA Chapter 1-A) to provide an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. An important part of the CTPC mandate is to conduct a biennial assessment on the impacts of international trade agreements on Maine.

We have enclosed a copy of our recently completed 2012 Trade Policy Assessment. In a process that is more fully described in an addendum included within the printed document, the Citizen Trade Policy Commission contracted with Professor Robert Stumberg of Georgetown University to conduct this assessment.

We believe that the 2012 Trade Policy Assessment is an invaluable tool for a more complete understanding of both the proposed TransPacific Partnership Agreement (TPPA) which is currently being negotiated and other international trade treaties and their current and potential effects on Maine. As a specific result of the 2012 Trade Policy Assessment, the CTPC has voted unanimously to make a number of recommendations regarding the potential treatment of *pharmaceuticals* within the TPPA and other international trade agreements:

- CTPC members voted to cite previous communications to the USTR regarding the treatment of pharmaceuticals in international trade treaties. In particular, we have also enclosed a letter dated February 12, 2010 which was addressed to Ms. Jennifer Choe Groves within the USTR. In that letter, the CTPC:
  - Voiced its support for evidence-based reimbursement decisions to restrain pharmaceutical prices;
  - Endorsed the continued state use of Preferred Drug Lists to also reduce pharmaceutical prices; and
  - Opposed any promotion of international restrictions on domestic pharmaceutical pricing programs.
- More specifically, the CTPC is unanimous in our support for the inclusion of a footnote in the TPPA and other trade agreements which "carves out" federal reimbursement programs such as Medicaid, 340 B and Medicare Part B;
- The CTPC also voted unanimously to support provisions in the TPPA and other international trade agreements which emphasize, allow for and encourage the overall affordability of pharmaceuticals in each affected country; and
- Finally, the CTPC requests that the USTR develop a clear public statement on the specific elements of a pharmaceuticals-related provision, as they are proposed by the USTR for consideration as a part of the TPPA.

In making these and other recommendations, members of the CTPC expressed a clear desire to further discuss these subjects in detail with either of you in the context of a public meeting held by the CTPC. We invite you to appear at such a public meeting at a date that is mutually satisfactory and as an alternative to you traveling to Maine, we suggest that a conference call could be arranged on a date to be determined in the near future.

On behalf of the CTPC, we thank you for your attention to the issues we have raised regarding any pharmaceutical-related provisions to be included in the TPPA and other international trade agreements and we look forward to discussing these issues with you in more detail.

Sincerely,

*Roger Sherman*<sup>mm</sup>

Senator Roger Sherman, Chair

*Joyce Maker*<sup>mm</sup>

Representative Joyce Maker, Chair

c: Governor Paul LePage  
 Senator Olympia Snowe  
 Senator Susan Collins  
 Representative Michael Michaud  
 Representative Chellie Pingree  
 Maine State Representative Sharon Treat, member of Intergovernmental Policy Advisory Committee

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
Rep. Margaret Rotundo

Heather Parent  
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Wade Merritt  
John Palmer  
Linda Pistor  
Harry Ricker  
Michael Roland  
Jay Wadleigh  
Joseph Woodbury

*Staff:  
Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

August 1, 2012

The Honorable Ronald Kirk  
Trade Ambassador  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Ms. Barbara Weisel  
Assistant U. S. Trade Representative for Southeast Asia and the Pacific  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Re: 2012 Trade Policy Assessment; commissioned by the Maine Citizen Trade Policy Commission

Dear Ambassador Kirk and Ms. Weisel:

As you may know, the Citizen Trade Policy Commission (CTPC) is required by current Maine Law (10 MRSA Chapter 1-A) to provide an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. An important part of the CTPC mandate is to conduct a biennial assessment on the impacts of international trade agreements on Maine.

We have enclosed a copy of our recently completed 2012 Trade Policy Assessment. In a process that is more fully described in an addendum included within the printed document, the Citizen Trade Policy Commission contracted with Professor Robert Stumberg of Georgetown University to conduct this assessment.

We believe that the 2012 Trade Policy Assessment is an invaluable tool for a more complete understanding of both the proposed TransPacific Partnership Agreement (TPPA) which is currently being negotiated and other international trade treaties and their current and potential effects on Maine. As a specific result of the 2012 Trade Policy Assessment, the CTPC has voted unanimously to make a number of recommendations regarding the potential treatment of *tobacco* within the TPPA:

- We favor a complete “carve out” of tobacco from the trade provisions of the TPPA; in other words, we would prefer that any regulations or laws pertaining to tobacco be completely excluded from the TPPA. The CTPC believes strongly that the efforts of individual nations to control tobacco and combat its adverse health effects should not be interfered or impeded in any way by provisions of the TPPA or any other international trade agreement;
- Absent a complete “carve out” of tobacco from the TPPA, we favor an approach which modifies the purported compromise proposal being made by the USTR; more specifically, the CTPC favors an approach which ensures that all federal and state laws and regulations pertaining to tobacco regulation are not subject to jurisdiction under the TPPA and further that any tobacco-related provisions of the TPPA embrace an approach which minimizes potential litigation be it through local, state or federal court and the possible use of ‘investor-state’ dispute settlement systems; and
- Finally, the CTPC requests that the USTR develop a clear public statement on the specifics on the specific elements of a tobacco-related provision, as they are proposed by the USTR for consideration as a part of the TPPA.

In making these and other recommendations, members of the CTPC expressed a clear desire to further discuss these subjects in detail with either of you in the context of a public meeting held by the CTPC. We invite you to appear at such a public meeting at a date that is mutually satisfactory and as an alternative to you traveling to Maine, we suggest that a conference call could be arranged on a date to be determined in the near future.

On behalf of the CTPC, we thank you for your attention to the issues we have raised regarding the treatment of tobacco-related provisions in the TPPA and we look forward to discussing these issues with you in more detail.

Sincerely,

*Roger Sherman* <sup>HM</sup>

Senafor Roger Sherman, Chair

*Joyce Maker* <sup>HM</sup>

Representative Joyce Maker, Chair

c: Governor Paul LePage  
 Senator Olympia Snowe  
 Senator Susan Collins  
 Representative Michael Michaud  
 Representative Chellie Pingree  
 Maine State Representative Sharon Treat, member of Intergovernmental Policy Advisory Committee

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
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Jay Wadleigh  
Joseph Woodbury

*Staff:  
Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

August 1, 2012

The Honorable Ronald Kirk  
Trade Ambassador  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Ms. Jean Grier  
Senior Procurement Negotiator  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Re: 2012 Trade Policy Assessment; commissioned by the Maine Citizen Trade Policy Commission

Dear Ambassador Kirk and Ms. Grier:

As you may know, the Citizen Trade Policy Commission (CTPC) is required by current Maine Law (10 MRSA Chapter 1-A) to provide an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. An important part of the CTPC mandate is to conduct a biennial assessment on the impacts of international trade agreements on Maine.

We have enclosed a copy of our recently completed 2012 Trade Policy Assessment. In a process that is more fully described in an addendum included within the printed document, the Citizen Trade Policy Commission contracted with Professor Robert Stumberg of Georgetown University to conduct this assessment.

We believe that the 2012 Trade Policy Assessment is an invaluable tool for a more complete understanding of both the proposed TransPacific Partnership Agreement (TPPA) which is currently being negotiated and other international trade treaties and their current and potential effects on Maine. As a specific result of the 2012 Trade Policy Assessment, the CTPC has voted unanimously to make a number of recommendations regarding the potential treatment of *procurement* within the TPPA and other international trade agreements:

- We favor an approach represented by procurement provisions in other previously negotiated trade agreements such as the World Trade Organization's Agreement on Government Procurement which allow state governors to decide whether to be subject to the procurement chapters of different Free Trade Agreements that have been negotiated between the U.S. and individual nations. The CTPC strongly believes that it is essential to a state's sovereignty to be able to decide whether to be subject to certain procurement provisions;
- The CTPC also is unanimous in our support for the inclusion of provisions in the TPPA and other trade agreements which allow for laws and regulations which permit "Buy America" procurement requirements and
- Finally, the CTPC requests that the USTR develop a clear public statement on the specific elements of a procurement-related provision, as they are proposed by the USTR for consideration as a part of the TPPA.

In making these and other recommendations, members of the CTPC expressed a clear desire to further discuss these subjects in detail with either of you in the context of a public meeting held by the CTPC. We invite you to appear at such a public meeting at a date that is mutually satisfactory and as an alternative to you traveling to Maine, we suggest that a conference call could be arranged on a date to be determined in the near future.

On behalf of the CTPC, we thank you for your attention to the issues we have raised regarding any procurement-related provisions to be included in the TPPA and other international trade agreements and we look forward to discussing these issues with you in more detail.

Sincerely,

*Roger Sherman*<sup>AM</sup>

Senator Roger Sherman, Chair

*Joyce Maker*<sup>AM</sup>

Representative Joyce Maker, Chair

c: Governor Paul LePage  
 Senator Olympia Snowe  
 Senator Susan Collins  
 Representative Michael Michaud  
 Representative Chellie Pingree  
 Maine State Representative Sharon Treat, member of Intergovernmental Policy Advisory Committee

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
Rep. Bernard Ayotte  
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Joseph Woodbury

*Staff:  
Lock Kiermaier*

STATE OF MAINE

## Citizen Trade Policy Commission

August 1, 2012

The Honorable Ronald Kirk  
Trade Ambassador  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Re: "Country-of-Origin" Labeling Issue

Dear Ambassador Kirk:

As you may know, the Citizen Trade Policy Commission (CTPC) is required by current Maine Law (10 MRSA Chapter 1-A) to provide an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions.

During the most recent meeting of the CTPC on July 11, 2012, the commission considered the issue of "Country of Origin" labeling as it pertains to certain provisions of trade agreements administered by the World Trade Organization (WTO). It is our understanding that in recent months, the WTO has handed down three decisions which have invalidated certain U.S. laws and regulations pertaining to country-of-origin labeling; specifically the federal County of Origin Labeling Act (COOL) has been accused by the WTO as having violated international trade rules.

During our review of this issue, the CTPC was informed that the USTR is assessing exactly what steps should be taken with regards to the adverse WTO rulings but no specific information was provided regarding exactly what options are available and under contemplation. Accordingly, because the provisions of COOL and other similar federal and state legislation are so crucial to issues surrounding state sovereignty, the CTPC requests that you respond to the following questions:

1. Exactly what parties, organizations or individuals are you consulting with regarding the recent WTO decisions which invalidate the federal COOL legislation?; and
2. What courses of action are the USTR considering in response to the recent adverse decisions from the WTO?

In making these and other recommendations, members of the CTPC expressed a clear desire to further discuss these subjects in detail with either of you in the context of a public meeting held by the CTPC. We invite you or senior members of your staff to appear at such a public meeting at a date that is mutually satisfactory and as an alternative to you traveling to Maine, we suggest that a conference call could be arranged on a date to be determined in the near future.

On behalf of the CTPC, we thank you for your attention to our significant concerns about the adverse WTO decisions with regards to Country-of-Origin labeling requirements that we have raised and we look forward to discussing these issues with you in more detail.

Sincerely,

*Roger Sherman*  
Senator Roger Sherman, Chair

*Joyce Maker*  
Representative Joyce Maker, Chair

c: Governor Paul LePage  
Senator Olympia Snowe  
Senator Susan Collins  
Representative Michael Michaud  
Representative Chellie Pingree  
Maine State Representative Sharon Treat, member of Intergovernmental Policy Advisory Committee

Sen. Roger Sherman, Chair  
Sen. Thomas Martin Jr.  
Sen. John Patrick  
Rep. Joyce Maker, Chair  
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Stephen Cole  
Michael Herz  
Mike Karagiannes  
Connie Jones



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John Palmer  
Linda Pistner  
Harry Ricker  
Jay Wadleigh  
Joseph Woodbury

*Staff:*  
Danielle Fox and Alyson Mayo  
Legislative Analysts-Office of Policy and Legal  
Analysis

STATE OF MAINE

## Citizen Trade Policy Commission

October 4, 2012

Ms. Jean Grier  
Senior Procurement Negotiator  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Dear Ms. Grier,

Please accept our sincere appreciation for your participation at the meeting held by the Maine Citizen Trade Policy Commission (CTPC) on September 19, 2012. Your comments were timely, informative, helpful and clear. We feel very fortunate that you were able to take the time to speak with us over the phone in spite of what we assume is an incredibly demanding schedule.

As you know, the CTPC dedicates itself to staying informed about international trade policy and how it impacts our state. We conduct biennial assessments of specific areas of interest with regard to trade policy; our most recent dealt with the Trans Pacific Partnership Agreement (TPPA) and was completed this summer. A copy of that assessment can be found on our website at: <http://www.maine.gov/legis/opla/citpolassessments.htm>

In addition to expressing our gratitude for your participation at our last meeting, we wanted to point out statements that we found particularly helpful and informative.

- In response to our question as to the potential negotiations for state-level procurement provisions in the TPPA, you stated that the USTR is committed to the same process of consulting with the states that has been used in other trade agreements. You assured us that USTR will seek state input if TPPA includes sub-federal level procurement provisions. We've established our strong support for state input. Not only are we one of the 37 states which have stated we want to be consulted with regard to procurement, we have also enacted legislation that requires the Governor to receive approval from the Maine Legislature to either opt in or opt out of the procurement provisions in international trade agreements. That requirement can be found at 10 MRSA §13. Subsection 5 of this law reads:

**5. Legislative approval of trade agreement required. Unless the Legislature by proper enactment of a law authorizes the Governor or another official of the State to enter into the specific proposed trade agreement, the State may not be bound by that trade agreement.**

- You also spoke to our concerns regarding potential changes to the WTO Agreement on Government Procurement (GPA), stating that any changes to that umbrella agreement will only apply to procurement on the federal level. We have been aware of the pressure being applied by the European Union with regard to changes to the GPA in order for them to have greater access to state-level procurement opportunities. We are relieved to know that the USTR will support maintaining the provisions of the GPA that enable states to opt in or opt out of procurement provisions in trade agreements and that the USTR won't bind states in any way unless they opt-in.
- We understand that the trigger for seeking input from the states is procurement activity that equals or exceeds \$500,000 in value. It was reassuring to hear that there are no plans to reduce that threshold.
- You were helpful in pointing out that the Davis Bacon Act, which requires a prevailing wage be paid for federal projects, and the Berry Amendment, which requires the Department of Defense to give procurement preference to domestically made goods for the military, will not be impacted by procurement provisions negotiated in the TPPA.

The Commission is so fortunate to have access to and input from people directly involved with the important responsibility of negotiating international trade agreements. Please accept our sincere gratitude for your thoughtful and helpful participation at our September meeting.

Sincerely,

*Roger Sherman* (PDF)  
Senator Roger L. Sherman, Co-chair  
Maine Citizen Trade Policy Commission

*Joyce Maker* (DDF)  
Representative Joyce A. Maker, Co-chair  
Maine Citizen Trade Policy Commission

## **APPENDIX F**

### **Letter from United States Trade Representative Ron Kirk**



EXECUTIVE OFFICE OF THE PRESIDENT  
THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

OCT 26 2012

Senator Roger Sherman, Chair  
Representative Joyce Maker, Chair  
State of Maine  
Citizen Trade Policy Commission  
c/o Office of Policy & Legal Analysis  
State House Station #13  
Augusta, ME 04333-0013

Dear Senator Sherman and Representative Maker:

Thank you for the recent letters you sent on behalf of the Citizen Trade Policy Commission (CTPC) and for sending a copy of your 2012 Trade Policy Assessment. I appreciate receiving your input on the possible impacts of international trade agreements generally and the Trans-Pacific Partnership (TPP) specifically, including the potential coverage of procurement by state governments and the potential treatment of tobacco and pharmaceuticals. In addition, you asked several questions regarding the status of the dispute in the World Trade Organization (WTO) regarding the Country of Origin Labeling Act (COOL).

With regard to your concerns with the potential coverage of state procurement under the TPP, let me assure you that the United States will only cover the state procurement of Maine or any other state where that state has expressly authorized such coverage. This is our long-established practice, which dates back to the inclusion of state procurement under the WTO Agreement on Government Procurement. With respect to your interest in further discussions of these issues, I understand our government procurement negotiator, Jean Grier, has been in contact with you.

In one of your letters you also outlined a number of CTPC recommendations regarding the treatment of tobacco in the TPP negotiations. We have heard from many stakeholders in recent months, with a number of perspectives on this issue and the draft tobacco proposal we developed. We are considering this wide-ranging input before determining how to move forward in the TPP negotiations. It is important to ensure we strike the right balance on an issue that is important to so many Americans. As we move forward in our review of the input we have received, we look forward to further discussion with interested stakeholders, including members of the CTPC.

Regarding your concern on the reimbursement of pharmaceutical products and medical devices, USTR is seeking TPP transparency provisions to ensure transparency and procedural fairness for pharmaceutical products and medical devices. This is a significant area of concern for U.S. exporters, including those in the innovative and generic pharmaceutical industries and the medical device industry. Our emphasis on transparency and fairness preserves flexibility for all TPP governments to design evidence-based pricing and reimbursement programs at the national level, while ensuring respect for the rights of stakeholders of all viewpoints through basic norms of transparency and procedural fairness. We will continue to negotiate these provisions carefully with the concerns of state government authorities in mind. As USTR has indicated previously, it remains our view that corresponding provisions of existing agreements are not applicable to Medicaid or health care programs at non-central levels of government.

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Finally, you asked about the status of the WTO dispute settlement proceedings regarding COOL. The United States has stated that it intends to comply with the recommendations and rulings of the WTO in the COOL dispute. We are continuing to consult internally within the U.S. Government on this matter, and no decision has yet been made as to how we will implement the WTO's recommendations and rulings.

Thank you again for sharing your views on the TPP negotiations and other trade issues of interest to the CTPC. We appreciate this input and your active engagement with us, and we will continue to consult closely with stakeholders, including members of the CTPC, as we formulate and implement U.S. trade policy.

Sincerely,



Ambassador Ron Kirk